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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 14, 2001

APPLICATION OF

BARC ELECTRIC COOPERATIVE

CASE NO. PUE000232

For a revision in retail base
rates, service charges, and
terms and conditions for
electric service

FINAL ORDER

On May 1, 2000, BARC Electric Cooperative ("BARC" or "the Cooperative") filed an application with the State Corporation Commission ("Commission") to revise its retail base rates, service charges, and terms and conditions of service. The Cooperative's proposed tariff revisions would increase the Cooperative's annual jurisdictional revenues by \$815,679, or 7.00%. The application represented that BARC's requested increase in annual revenues would produce a Times Interest Earned Ratio ("TIER") of 2.07, using pro forma interest, and a rate of return on rate base of 8.16%. According to BARC, its rates have been designed to produce an increase in jurisdictional base revenues of \$766,039, after the elimination of Rider Surcharges OD-11, OD-12, and OD-13. The Cooperative represents that its other revenues have been increased by \$49,640. Pursuant to § 56-582 of the Code of Virginia, the

Cooperative's proposed rate and tariff revisions became effective on an interim basis, subject to refund with interest, on January 1, 2001.

On May 26, 2000, the Commission entered its Order for Notice and Hearing. This Order docketed the application, appointed a Hearing Examiner to the matter, set the matter for hearing on November 13, 2000, directed BARC to give notice to the public of its application, and established a procedural schedule for the Cooperative, protestants, Staff, and public witnesses.

On the appointed day, the matter was heard by Michael D. Thomas, Hearing Examiner. Counsel appearing were William B. McClung, Esquire, counsel for the Cooperative; Rebecca W. Hartz, Esquire, counsel for the Division of Consumer Counsel, Office of the Attorney General ("AG" or "Attorney General"); and Katharine A. Hart, Esquire, and Sherry H. Bridewell, Esquire, counsel for the Commission Staff ("Staff"). No public witnesses testified at the hearing. At the conclusion of the hearing, the Hearing Examiner directed the case participants to file simultaneous post-hearing briefs 60 days after the transcript of the hearing was filed in the case.

A transcript of the November 13, 2000, hearing was filed on January 12, 2001, and the Cooperative, Staff, and Consumer

Counsel filed their respective post-hearing briefs on March 12, 2001.

On June 29, 2001, the Hearing Examiner filed his Report in this matter. In his Report, he summarized the evidence and determined the gravamen of the controversy between the Staff and BARC to be the methodology to be used for setting capped rates as required by § 56-582 A 3 of the Code of Virginia.

Section 56-582 A 3 of the Code of Virginia provides in pertinent part that

[s]uch rate application and the Commission's approval shall give due consideration, on a forward-looking basis, to the justness and reasonableness of rates to be effective for a period of time ending as late as July 1, 2007.

The Hearing Examiner analyzed the statute and determined that the language "due consideration" provides the Commission the discretion to review and weigh the various factors, e.g., the utility's revenues, expenses, and rate base, that affect the justness and reasonableness of an electric utility's rates.

The Hearing Examiner determined that the phrase "on a forward-looking basis" required the Commission to look into the future. He noted that the Commission, in the exercise of its discretion, would weigh the reliability of the data and assumptions used in the forecasts in determining whether the utility's rates met the just and reasonable standard.

After analyzing the statute, the Hearing Examiner found the cost of service methodology employed by the Staff to be reasonable and to meet the requirements of § 56-582 A 3 of the Code of Virginia.¹ He accepted the purchased power forecast supplied by ODEC to its member cooperatives in August 2000, and found that these data represented reasonable estimates of BARC's future purchased power costs. He also found that the Cooperative's revenue requirement should be adjusted to remove the effects of gross receipts taxes that the Cooperative is no longer responsible for paying. According to the Hearing Examiner, removal of gross receipts taxes from BARC's cost of service has the effect of reducing the Cooperative's requested revenue requirement from \$815,679 to \$610,994.

The Hearing Examiner accepted BARC's use of a 3.07% depreciation rate for its distribution plant equipment as well as its use of a 10% depreciation rate for its load management equipment. Employing the Staff's methodology and the Cooperative's depreciation rates, he determined that BARC required \$615,222, in additional gross annual revenues, or

¹ The Staff performed an analysis of BARC's current and projected revenues, expenses, and changes in rate base for the 12 months ending June 30, 1999, through July 1, 2007. It incorporated the most current cost of service data available from BARC and Old Dominion Electric Cooperative ("ODEC"), BARC's primary wholesale power supplier, in reaching its conclusions. Staff also used a seven-year rate period to determine the Cooperative's revenue requirement and applied a present value factor to the out-year revenues and expenses to bring these cost of service elements to a 2001 rate year.

\$90,435, more than the Staff's recommended additional gross annual revenue requirement of \$524,787. The Hearing Examiner recommended that BARC's revenue requirement be established using a 2.25 actual TIER, the mid-point of the TIER range of 2.0 to 2.5, supported by Staff.

The Hearing Examiner also accepted the Staff's methodology for determining BARC's cost of capital, as well as the Staff's 6.13% interest rate for the Cooperative's new Federal Financing Bank notes and its 9.10% interest rate for National Rural Cooperative Finance Corporation ("CFC") notes borrowed by the Cooperative and renewed by CFC, its lender.

The Hearing Examiner determined that issues related to the proper methodology for unbundling BARC's rates should be addressed in BARC's pending functional separation case docketed as Case No. PUE010002. However, he found ODEC's projected wholesale power rates to be reliable and recommended that these rates should be used to determine the Cooperative's future purchased power costs. He also determined that BARC's purchased power cost for the capped rate period was \$5,591,085, and recommended that the Commission use this amount as the basis for determining BARC's generation cap in the Cooperative's functional separation case (Case No. PUE010002). The Examiner concluded that, if a different figure were employed, a subsidy

could be created between the Cooperative's bundled and unbundled rate customers.

Based on the record developed in this matter, the Hearing Examiner also made the following findings:

(1) The methodology employed by the Staff in this case is reasonable and meets the requirements imposed on the Commission by § 56-582 A 3 of the Code of Virginia;

(2) The Staff's rate period and billing determinants are reasonable and should be used for setting the Cooperative's rates;

(3) Gross receipts taxes should be removed from the Cooperative's revenue requirement;

(4) The Cooperative's depreciation rates of 3.07% for its distribution equipment and 10% for its load management equipment are reasonable;

(5) The Cooperative's rate case expense, as adjusted by the Staff, is reasonable;

(6) The Cooperative's right-of-way expense, as adjusted by the Staff, is reasonable;

(7) The Cooperative's payroll expense, as adjusted by the Staff, is reasonable;

(8) The Staff's interest expense calculation is reasonable;

(9) The Cooperative's [actual] TIER should be set at 2.25;

(10) The Staff's cost of capital calculations are reasonable;

(11) The Cooperative's adjusted revenue requirement of \$615,222.00 is reasonable;

(12) The Cooperative's Wholesale Power Cost Adjustment Clause should be amended to remove any reference to gross receipts taxes;

(13) The Cooperative's miscellaneous services charges, including its bad check charge, are reasonable;

(14) The Cooperative's change in its meter reading policy is reasonable;

(15) The Cooperative's change in its generation credit rider is reasonable;

(16) The issues related to the proper methodology for unbundling the Cooperative's rates and the resulting unbundled rates should be addressed in the Cooperative's functional separation case, Case No. PUE010002;

(17) The Cooperative's total purchased power cost for the capped rate period is \$5,591,085; and

(18) The Cooperative's total purchased power cost as set in this case should be used as the basis for determining the generation cap in the Cooperative's functional separation case.

The Hearing Examiner recommended that the Commission enter an order that adopts the findings contained in his Report; approves an increase in gross annual revenues for the Cooperative of \$615,222; directs BARC to apportion the approved rate increase to its retail classes using the same percentage increases proposed by BARC; approves BARC's tariff revisions as

set forth in the Hearing Examiner's Report; requires the Cooperative to file an affidavit certifying that all over-collections during the period interim rates were in effect have been refunded; and dismisses the case from the Commission's docket of active proceedings. The Hearing Examiner invited the parties to the proceeding to file responses to his Report within twenty-one (21) days from the date of its entry.

On July 20, 2001, the Attorney General and BARC each filed a response to the Hearing Examiner's Report. In its Response, BARC accepted the Examiner's recommended revenue requirement of \$615,222, but characterized the methodology used by the Hearing Examiner in establishing BARC's revenue requirement as incorporating ratemaking adjustments "based on nearly seven years of highly speculative and uncertain forecast data." The Cooperative supported the Hearing Examiner's recommendations relative to BARC's depreciation adjustments, and agreed with the Hearing Examiner's recommendation that the methodology for rate unbundling should be addressed in Case No. PUE010002, BARC's application for approval of its functional separation plan.

The Attorney General supported the Hearing Examiner's findings relative to § 56-582 A 3 of the Virginia Electric Utility Restructuring Act, and commented that in order to give due consideration to the future justness of rates, the Hearing Examiner appropriately considered reasonable projections of

future revenues and expenses. The Attorney General maintained that the Commission must act now to account for the projected decreases in demand costs the Cooperative will pay for its purchased power. The AG asserted that the Examiner properly utilized ODEC's projected wholesale power rates in giving due consideration, on a forward-looking basis, to the justness and reasonableness of rates for a period ending as late as 2007.

NOW, UPON consideration of the record herein, the Hearing Examiner's Report, and the responses thereto, the Commission is of the opinion and finds that the analysis, findings, and recommendations of the June 29, 2001, Hearing Examiner's Report are reasonable, supported by the record, and should be adopted, except as stated below. Contrary to BARC's assertions, we find that the record supports the use of the data forecasts accepted by the Hearing Examiner in his Report.

Moreover, we agree with the Hearing Examiner that the methodology for unbundling BARC's rates should be addressed in the Cooperative's pending functional separation case, Case No. PUE010002. We conclude, however, that the bundled rates BARC must file in accordance with the directives of this Order should be considered in Case No. PUE010002. Accordingly, we will supplement and modify the Hearing Examiner's Report to require BARC to employ the bundled rates filed in compliance with this Order as a basis for developing its unbundled rates,

fees and charges in Case No. PUE010002.² Moreover, BARC should supplement its filing in Case No. PUE010002 to include the total purchased power cost determined herein so that this cost may also be considered in Case No. PUE010002.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations set out in the June 29, 2001, Hearing Examiner's Report, as modified and supplemented herein, are hereby adopted.

(2) The Cooperative shall be granted an increase in gross annual revenues of \$615,222, effective for service rendered on and after January 1, 2001.

(3) BARC shall forthwith file with the Division of Energy Regulation revised permanent schedules of rates, fees and charges, together with its revised terms and conditions of service, designed to produce the additional revenues found reasonable herein, effective for service rendered on and after January 1, 2001.

(4) On or before October 31, 2001, BARC is directed to recalculate, using the rates being established by this Order, each bill it rendered that used, in whole or in part, the interim rates being replaced by the rates established by this Order. In each instance where application of the rates being

² If BARC or any other party in Case No. PUE010002 believes that BARC's unbundled rates should be established on another basis in Case No. PUE010002, BARC and others remain at liberty to advance those arguments in that case.

established by this Order yields a reduced bill to the customer, BARC is directed to refund with interest as directed below, the difference.

(5) Interest upon the ordered refunds shall be computed from the date payment of each monthly bill was due during the interim period until the date refunds are made, at an average prime rate for each calendar quarter. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin, or in the Federal Reserve's Selected Interest Rates ("Selected Interest Rates") (Statistical Release G.13), for the three months of the preceding calendar quarter.

(6) The interest required to be paid herein shall be compounded quarterly.

(7) The refunds ordered in Paragraph (4) above may be accomplished by credit to the appropriate customer's account for current customers (each refund category shown separately on each customer's bill). Refunds to former customers shall be made by check to the last known address of such customers when the refund amount is \$1 or more. BARC may offset the credit or refund to the extent no dispute exists regarding the outstanding balances for its current customers or customers who are no longer on its system. To the extent that outstanding balances

of such customers are disputed, no offset shall be permitted for the disputed portion of these balances. The Cooperative may retain refunds owed to former customers when the refund amount is less than \$1. However, BARC shall prepare and maintain a list detailing each of the former accounts for which refunds are less than \$1, and in the event such former customers contact the Cooperative and request refunds, such refunds shall be made promptly. All unclaimed refunds shall be handled in accordance with § 55-210.6:2 of the Code of Virginia.

(8) On or before November 30, 2001, BARC shall file with the Division of Energy Regulation a document showing that all refunds have been lawfully made pursuant to this Order, and itemizing the costs of the refund and accounts charged. Such itemization of costs shall include, inter alia, computer costs, the personnel hours, associated salaries, and costs for verifying and correcting the refunds directed in this Order.

(9) On or before August 31, 2001, BARC shall supplement its pending functional separation application docketed as Case No. PUE010002, so that the Cooperative's total purchased power cost as determined in this case and the bundled rates filed in conformance with this Order may be considered in Case No. PUE010002.

(10) The Cooperative shall forthwith revise its Wholesale Power Cost Adjustment Clause to remove any reference to gross receipts taxes.

(11) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.